

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BROCADE COMMUNICATIONS SYSTEMS, )  
INC., ET AL., )

Plaintiffs, )

v. )

A10 NETWORKS, INC., ET AL., )

Defendants. )

Case No.: C 10-3428 PSG

**ORDER RE: SCOPE OF NEW TRIAL**

**(Re: Docket Nos. 914, 920)**

At issue in this order are the parties' cross-motions regarding the scope of a retrial set to begin on May 20, 2013. Following a jury's determination that A10 Networks, Inc. ("A10") was liable for several claims brought by Brocade Communications Systems, Inc., et al ("Brocade") and Foundry Networks, LLC ("Foundry"), A10 moved for judgment as a matter of law ("JMOL") on those claims. That motion was denied.<sup>1</sup> But the court did grant A10's alternative request for a new trial on the patent damages award and on the punitive damages awarded for intentional interference with contractual relations ("ICR").<sup>2</sup>

<sup>1</sup> See Docket No. 845.

<sup>2</sup> See *id.*

1 A10 now moves the court to enter judgment on the IICR damages amount or in the  
2 alternative to bifurcate the IICR issue from the patent damages determination.<sup>3</sup> Brocade opposes  
3 the bifurcation and the entry of judgment on the IICR damages and alternatively moves for a new  
4 trial on the IICR compensatory damages to be conducted simultaneously with the retrial on the  
5 punitive damages and the patent damages.<sup>4</sup>

6 Because of the rapidly approaching trial date, the court provides here only its decision and  
7 will provide at a later date an order more completely reflecting its reasoning. The court DENIES  
8 Brocade's motion for a new trial on the compensatory IICR damages because Brocade has not  
9 shown that it is entitled to a new trial on that issue. Because the compensatory damages need not  
10 be reconsidered, the court finds entry of judgment for the punitive damages is appropriate and  
11 GRANTS A10's motion.<sup>5</sup> In its order, the court will determine the constitutional maximum in  
12 punitive damages to which Brocade is entitled and will enter judgment in that amount. The trial to  
13 commence on May 20, 2013 therefore will be limited to the retrial of patent damages in line with  
14 the court's January 10, 2013 order.<sup>6</sup>

15 The parties have agreed to exchange identification of prior testimony and evidence to be  
16 presented at the retrial by May 6, 2013 and to exchange objections by May 13, 2013.<sup>7</sup> The parties  
17 currently are supposed to appear for a hearing on May 7, 2013. Having considered its calendar, the  
18 court modifies the parties' schedule as follows. By May 6, 2013, the parties shall exchange with  
19 each other and file with the court their identifications of prior testimony and evidence to be  
20 presented at the retrial. They shall exchange and file their objections no later than 5:00 p.m. on  
21

22  
23  
24 <sup>3</sup> See Docket No. 914.

25 <sup>4</sup> See *id.*

26 <sup>5</sup> See *Leatherman Tool Group, Inc. v. Cooper Indus., Inc.*, 285 F.3d 1146, 1151 (9th Cir. 2002).

27 <sup>6</sup> See Docket No. 845.

28 <sup>7</sup> See Docket No. 906.

1 Friday, May 10, 2013, and they shall appear for a pretrial conference at 3:00 p.m. on Tuesday, May  
2 14, 2013. The parties also shall file a joint pretrial statement no later than 5:00 p.m. on Friday,  
3 May 10, 2013 in line with the undersigned's standing order. At the pretrial conference, the court  
4 will resolve any evidentiary disputes and any outstanding issues between the parties.

5 **IT IS SO ORDERED.**

6 Dated: April 29, 2013

7   
8 PAUL S. GREWAL  
9 United States Magistrate Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28